

March 15, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

MAR 19 1996

RE: Telecommunications Services -- Inside Wiring, Customer
Premises Equipment, C.S. Docket No. 95-184

Dear Mr. Caton:

DOCKET FILE COPY ORIGINAL

I am writing in response to the Notice of Proposed Rulemaking, CS Docket No. 95-184, released on January 26, 1995, regarding telephone and cable inside wiring rules and policies. We enclose four (4) copies of this letter, in addition to this original.

I am concerned about the negative impact potential FCC actions regarding access to private property may have on the private property rights of building owners and the possibility these actions may cause unnecessary legal and business conflicts.

As Public Affairs Director of the Building Owners and Managers Association of Chicago (BOMA/Chicago) and the Building Owners and Managers Association of Illinois (BOMA/Illinois), I represent the interests of the owners and managers of more than 128 million square feet of office space in Illinois. We are represented in Washington, D.C. by the Building Owners and Managers Association International (BOMA/International).

BOMA/Chicago alone represents more than 225 commercial office buildings, comprising more than 100 million square feet of office space and more than 85% of the total office space in Chicago's Central Business District. BOMA/Chicago membership includes some of the largest ownership and management concerns in the United States, as well as a number of small business owners and managers with revenues of less than \$5 million per year.

The level of concern among our membership is great enough that we have formed a special Telecommunications Task Force made up of representatives of more than 40 ownership and management companies to review the impact of the Telecommunications Act of 1996 and any potential FCC telecommunications rules.

On behalf of BOMA/Chicago, I would like to address the following issues of concern:

- access to private property;
- location of the demarcation point;
- standards for connections;
- regulation of wiring; and
- customer access to wiring.

BUILDING OWNERS
AND MANAGERS
ASSOCIATION OF
CHICAGO

135 SOUTH LASALLE
SUITE 3905
CHICAGO, IL 60603-4237
312 236-5237
FAX 312 236-5766

MAILED
MAR 19 1996
CHICAGO
049

1. Access to Private Property

Access to modern telecommunications is critically important to our commercial tenants, therefore it is critically important for our buildings to ensure that our customers - our tenants - have those services available at a reasonable cost. In a fiercely competitive office leasing marketplace such as Chicago, our members could not secure new nor retain old tenants if they did not provide the telecommunications access needed by tenants. As a result, our commercial tenants have been able to obtain access to a wide range of modern telecommunication services, *without government intervention*.

In fact, Illinois and Chicago have developed a highly competitive telecommunications marketplace without any unnecessary government intervention in the form of mandatory access rules. Private property rights are respected and tenants needs are well served.

We think intervention could have the unintended effect of interfering with our ability to effectively manage our properties, and thus interfering with our ability to fully serve our tenants' needs. Moreover, we believe the government should instead strive to preserve and protect a property owner's rights and responsibilities to properly manage his or her property. These rights and responsibilities include coordination among tenants and service providers; managing limited physical space; ensuring the security of tenants and visitors; and compliance with building and safety codes.

Needless regulation not only harms the interest of private property owners but also harms the interests of our tenants and the public at large.

For example, in a multi-tenant building, an owner/manager must have control over the space occupied by telephone lines and facilities to better coordinate the conflicting requirements of multiple tenants and multiple service providers. Implementation of the new telecommunications law will lead to a proliferation of new services, service providers and user needs, placing tremendous demand on limited riser and conduit space. A building has only a finite amount of space to provide telecommunications facilities, and even if that space could be expanded, it certainly cannot be expanded without considerable expense to the building owner/manager. Furthermore, installation and maintenance of such facilities not only disrupt the physical fabric of the building, but also the activities of tenants.

For these reasons, we agree with BOMA/International that the best approach is to allow building owners (if they choose) to retain ownership and control over their property -- including inside wiring -- so long as they make sufficient capacity available to meet the needs of a building's multiple occupants.

We also are concerned about the security of our buildings and the personal safety of our tenants. Consequently, telecommunications maintenance and installation must be conducted within the rules established by a building manager, and the manager must have the ability to supervise and control that activity. We simply cannot allow service personnel to go anywhere they please in our buildings without our knowledge. Unrestricted access raises serious personal safety issues.

Finally, the building owner/manager is responsible for compliance with local safety and building codes, and thus we are the front-line of enforcement. We cannot ensure code compliance if we do not have control over who does what work in our buildings, or when and where they do it. Limiting our control in this area again increases our exposure to liability and adversely affects public safety.

Given our experience in the fast expanding Chicago telecommunications marketplace, where access is routinely obtained through negotiated contracts between property owners and providers, we believe it is unnecessary for the FCC to interject itself in this area and any action could prove counterproductive.

2. Demarcation Point.

There should be a uniform demarcation point determined by the nature of the property and not the technology. For commercial buildings, the preferable point is in the telephone vault or frame room. For properties without on-site management, especially residential properties, this point should be outside the building, or outside the resident's premises.

3. Connections

Technical standards for connections should be driven by established industry standards and evolving technology, not by government regulation.

4. Regulation of Wiring

Regulations, if any, should recognize the substantial differences between residential and commercial properties. Furthermore, many buildings in Chicago are of mixed use, combining office, retail and residential uses. Uniform rules, or a one-size-fits-all solution, may again be counterproductive if those rules do not account for differences among these uses.

Requiring retrofitting could be very expensive to both the service providers and the building owners, and runs counter to existing practices in building code amendments. Except where safety is involved, amendments to the building and electrical codes are seldom retroactive.

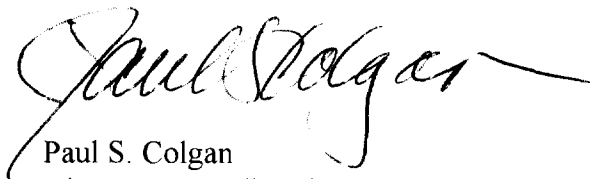
5. Customer Access to Wiring

Commercial office tenants should be permitted to install or maintain their own wiring, or buy wiring from a service provider, provided that the rights of the owner are taken into account. A tenant's rights should not extend beyond the limits of the demised premises, and the landlord must retain the right to obtain access to the wiring and control the type and placement of such wiring. Moreover, the owner of the premises must have a superseding right to acquire or install any wiring. This issue is best governed by state property law and the lease terms. Regulations must not violate the owner's rights to control activities on their own property.

We recognize the difficulty of the task before the FCC and we urge you to carefully consider the unintended, negative impact open access rules can have on private property owners. Telecommunications providers have become aggressive and successful free-market business competitors and the access provisions developed for monopoly carriers are no longer valid in a competitive marketplace. A proliferation of competitive providers with unrestricted access can create very serious private property rights abuses, legal liability issues, personal safety concerns and substantial economic losses for property owners and managers.

Thank you in advance for your consideration of our concerns in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul S. Colgan", with a long horizontal flourish extending to the right.

Paul S. Colgan
Director of Public Affairs
BOMA/Chicago